

FILED
ELECTRONICALLY
12/7/06

SHEA & CARLYON, LTD.
CANDACE C. CARLYON
Nevada Bar No. 002666
SHLOMO S. SHERMAN, ESQ.
Nevada Bar No. 009688
228 S. Fourth Street, First Floor
Las Vegas, NV 89101
Telephone: (702)471-7432
Facsimile: (702)471-7435
Email: jshea@sheacarlyon.com
ccarlyon@sheacarlyon.com
ssherman@sheacarlyon.com

*Special (Nevada) Counsel for the Official Committee of Equity Security Holders of
USA Capital First Trust Deed Fund, LLC*

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:) BK-S-06-10725-LBR
USA COMMERCIAL MORTGAGE COMPANY) Chapter 11
Debtor.)

In re:) BK-S-06-10726-LBR
USA CAPITAL REALTY ADVISORS, LLC,) Chapter 11
Debtor.)

In re:) BK-S-06-10727-LBR
USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,) Chapter 11
Debtor)

In re:) BK-S-06-10728-LBR
USA CAPITAL FIRST TRUST DEED FUND, LLC,) Chapter 11
Debtor)

In re:) BK-S-06-10729-LBR
USA SECURITIES, LLC,) Chapter 11
Debtor)

Affects:

- ☐ All Debtors)
☐ USA Commercial Mortgage Co.)
☐ USA Securities, LLC)
☐ USA Capital Realty Advisors, LLC)
☐ USA Capital Diversified Trust Deed)
☒ USA First Trust Deed Fund, LLC)

DATE: June 5, 2006
TIME: 9:30 a.m.

**DECLARATION OF SHLOMO S. SHERMAN, ESQ. AND FOURTH SUPPLEMENTAL
STATEMENT OF DISINTERESTEDNESS IN SUPPORT OF APPLICATION FOR ORDER
APPOINTING SHEA & CARLYON, LTD. AS SPECIAL (NEVADA) COUNSEL FOR THE
OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL FIRST
TRUST DEED FUND, LLC**

1 I, Shlomo S. Sherman, Esq., hereby declare and state as follows:

2 1. The following facts are personally known to me and if called to testify thereto,
3 I could and would do so, under oath.

4 2. I make this Declaration and Fourth Supplemental Statement of
5 Disinterestedness ("Declaration") in support of the Application (the "Application") for Order
6 Appointing Shea & Carlyon, Ltd. ("Shea & Carlyon") as Special (Nevada) Counsel for the
7 Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC
8 (the "FTDF Committee"), which Application the Court granted by an Order entered on June
9 20, 2006 (docket #739).

10 3. To the best of my knowledge, and based upon the Fourth Supplemental
11 Statement of Disinterestedness herein, neither Shea & Carlyon, nor any of its shareholders
12 have any present connection with the any of the official committees appointed in the USA
13 cases, the debtors, any creditors of the estate, any party in interest, their attorneys or
14 accountants, the United States Trustee and any person employed in the office of the United
15 States Trustee other than those described in the Application, in both the initial and
16 supplemental Declarations of James Patrick Shea, Esq. in support thereof (docket #s 304 and
17 1180, respectively), in the Declaration of Candace C. Carlyon, Esq. and Second Supplemental
18 Statement of Disinterestedness in support thereof (docket #1742), in the Declaration of Shawn
19 W. Miller and Third Supplemental Statement of Disinterestedness in support thereof (docket
20 #1921); and in this Declaration.

21 4. With respect to Shea & Carlyon's involvement with, or representation of, the
22 FTDF Committee in this Bankruptcy Case, Shea & Carlyon hereby discloses the following
23
24

connections and developments that have been discovered in the course of its involvement in the USA cases:

- a. Shea & Carlyon currently represents Consolidated Mortgage, LLC ("Consolidated"), the successor-in-interest to Consolidated Mortgage Corporation, and a subsidiary of Desert Capital REIT, Inc with respect to several matters that are unrelated to the bankruptcy proceedings. In addition, Shea & Carlyon has provided past representation to Desert Capital REIT, Inc, in an unrelated matter. The following is a list of additional entities that are affiliated with Consolidated for whom Shea & Carlyon has provided or provides either past or present representation in matters that are wholly unrelated to these bankruptcy proceedings:

1. CM Land, LLC;
2. DCR Galleria, LLC;
3. Vieux Carre, LLC, which is owned by Cameron Street, LLC, an affiliate of Consolidated;
4. Deb Ella, LLC.

- b. In addition, Shea & Carlyon serves as Resident Agent for the following affiliated entities:

1. Consolidated Mortgage, LLC;
2. DCR Galleria, LLC;
3. CM Land, LLC;
4. Residential Capital Mortgage Corporation;
5. Residential Capital Corporation;

1 6. Burton Management Company, Ltd.;

2 7. CMC Financial Services, Inc.

3 c. Desert Capital REIT, Inc. is a potential overbidder in today's auction of
4 substantially all of the assets of USA Capital Trust Deed Fund, LLC, and
5 certain assets of USA Commercial Mortgage Company.
6

7 5. In order to avoid even the appearance of impropriety or undue influence with
8 respect to the Auction proceedings, Shea & Carlyon, has implemented the following internal
9 procedures as of November 30, 2006:

10 a. Shea & Carlyon has not and will not engage in any communications
11 with Consolidated or any of its affiliates regarding any aspect of the
12 USA cases.
13

14 b. Shea & Carlyon has not and will not make any recommendations to the
15 FTDF Committee with respect to either the qualification or the
16 selection of a particular bidder.
17

18 6. Shea & Carlyon will continue to be involved in other aspects of the Auction
19 proceedings, as well as the proceedings relating to the confirmation of the Third Amended
20 Joint Chapter 11 Plan of Reorganization.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

DATED this 7th day of December, 2006.

SHEA & CARLYON, LTD.

Las Vegas, NV 89101